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Counsel for Defendants
Robert Bosch LLC and Robert Bosch GmbH

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: VOLKSWAGEN “CLEAN DIESEL”
MARKETING, SALES PRACTICES AND
PRODUCT LIABILITY LITIGATION

MDL DOCKET NO. 2672 CRB (JSC)

This Document Relates to:

Nemet, et al. v. Volkswagen Group of America,
Inc., et al.

Case No. 3:17-cv-04372-CRB

**ROBERT BOSCH LLC’S AND
ROBERT BOSCH GMBH’S NOTICE
OF MOTION AND MOTION TO
DISMISS FIRST AMENDED CLASS
ACTION COMPLAINT AND
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT
THEREOF**

Date: April 5, 2019
Time: 10:00 a.m.

NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that on April 5, 2019 at 10:00 a.m. or at such other date as may be agreed upon or ordered, in Courtroom 6 of the United States District Court for the Northern District of California, located at 450 Golden Gate Avenue, San Francisco, California, Defendants Robert Bosch LLC (“Bosch LLC”) and Robert Bosch GmbH (“Bosch GmbH”) (together, the “Bosch Defendants”) will and hereby do move this Court to dismiss the RICO claim from the First Amended Class Action Complaint (the “FAC”), ECF No. 5515. This Motion is made pursuant to Rules 9(b), 12(b)(1), and 12(b)(6) of the Federal Rules of Civil Procedure, and is based on this Notice of Motion, the accompanying Memorandum of Points and Authorities, all pleadings and papers filed herein, oral argument of counsel, and any other matter that may be submitted at any hearing of this Motion.

REQUEST FOR RELIEF

The Bosch Defendants respectfully request that the Court dismiss all claims against them with prejudice.

ISSUES TO BE DECIDED

1. Whether Plaintiffs lack constitutional standing to sue the Bosch Defendants because they have failed to plead the existence of a quantifiable injury to a “low-emissions premium” or any other injury that is tangible, quantifiable, and not speculative.
2. Whether Plaintiffs’ RICO claim fails because alleged fraud on the EPA and CARB does not constitute a predicate act of mail or wire fraud, Plaintiffs were not the direct victims of such alleged fraud, and Plaintiffs fail to plead with requisite particularity any separate predicate acts of mail or wire fraud of which they were the direct victims.

MEMORANDUM OF POINTS AND AUTHORITIES

The Bosch Defendants join Volkswagen Group of America, Inc. and Audi of America, LLC’s Notice of Motion and Motion to Dismiss the Pre-NOV Plaintiffs’ Amended Complaint; Memorandum of Points and Authorities in Support Thereof (the “Motion”). The FAC purports to

1 plead only a RICO claim against the Bosch Defendants. The Bosch Defendants therefore adopt
2 Points I and II of the Motion as if directly applicable to the Bosch Defendants.¹

3 To conserve the Court's and the parties' resources, and because the arguments in those
4 portions of the Motion equally apply to all defendants, the Bosch Defendants adopt and rely upon
5 the arguments and authority set forth in the Motion, the memorandum of law in support thereof, and
6 all accompanying materials.

7 **CONCLUSION**

8 For all the foregoing reasons, the Bosch Defendants respectfully request that the Court
9 dismiss the RICO claim in the FAC against them with prejudice.

10 Dated: January 15, 2019

11 Respectfully submitted,

12 CLEARY GOTTlieb STEEN & HAMILTON LLP

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26 ¹ Plaintiffs' state-law claims in Counts 2 through 28 of the FAC are not alleged against the Bosch
27 Defendants, and accordingly the arguments in Part III of the Motion are not applicable to the Bosch
28 Defendants.

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